

Schedule for Recomputing the Federal Income Tax Liability by Certain Nonresident Filers

- This schedule is to be used by a nonresident individual, estate or trust **only if** certain conditions apply — see **"Who must complete"** below
- References to Federal Form 1040 are for Form 37-S filers and references to Federal Form 1041 are for Form 38 (Schedule 1) filers

1. Net income reportable to North Dakota by nonresident individual, estate or trust (See instructions)	1		
2. Amount from Federal Form 1040, line 36 or Federal Form 1041, line 16	2		
3. Amount from Federal Form 1040, line 38 or Federal Form 1041, line 20	3		
4. Recomputed federal taxable income (Line 1 less lines 2 and 3)	4		
5. Recomputed federal income tax from: <input type="checkbox"/> Federal tax table (individual only) or <input type="checkbox"/> Federal tax rate schedule or <input type="checkbox"/> Schedule D (Form 1040 or Form 1041) (See instructions for the appropriate method to use)	5		
If Federal Form 6251 or Schedule I of Federal Form 1041 was required to be completed, complete lines 6 through 10. Otherwise, enter the amount from line 5 on line 11.			
6. Tentative minimum tax from Federal Form 6251, line 26 or Federal Form 1041, Schedule I, line 37. If zero, enter -0- on line 10 and go to line 11	6		
7. Enter amount from line 5 above	7		
8. Recomputed federal alternative minimum tax (Line 6 less line 7). If zero or less, enter -0- on line 10 and go to line 11	8		
9. Investment credit, if any, included on Federal Form 1040, line 47 or Federal Form 1041, Schedule G, line 2c	9		
10. Amount of federal alternative minimum tax to include in recomputed federal income tax liability (Line 8 less line 9). If zero or less, enter -0-	10		
11. Balance (Line 5 plus line 10)	11		
12. Credit for prior year minimum tax from Federal Form 1040, line 47 or Federal Form 1041, Schedule G, line 2d	12		
13. Recomputed federal income tax liability (Line 11 less line 12). Enter result here and on Form 37-S, lines 1 and 9 or Form 38, Schedule 1, lines 1 and 9	13		

Attach this schedule to Form 37-S or Form 38, whichever applies

Instructions

Who must complete

If a nonresident individual uses Form 37-S (Short Form), or if a nonresident estate or trust uses Schedule 1 (Short Method) on Form 38, North Dakota Administrative Code § 81-03-02.2-03 requires the recomputation of the federal income tax liability if:

- Losses from sources outside North Dakota exceed income from sources outside North Dakota; and,
- Income from North Dakota sources exceeds losses from North Dakota sources.

In the case of an individual, this applies only if the individual was a nonresident of North Dakota for the entire tax year.

The purpose of the recomputation is to remove the effect of the net out-of-state loss on the federal income tax liability, resulting in an increase in the amount of the federal income tax liability that must be entered on line 1 of Form 37-S or line 1 of Schedule 1 (Short Method) on Form 38.

Line 1

For a nonresident individual, enter the amount from Schedule NR, column B, line 27. For a nonresident estate or trust, enter the portion of the amount from Form 38, Schedule 1, line 2 that is reportable to North Dakota. If this amount is zero or less, this schedule does not have to be completed.

Line 5

Recompute the federal income tax using the applicable method below:

- **Federal tax table (individual only).** An individual generally must use this method if the recomputed federal taxable income on line 4 is less than \$100,000 and the taxable year is not less than twelve months due to a change in the annual accounting method. Use the column in the federal tax table that corresponds to the individual's federal filing status.
- **Federal tax rate schedule.** An individual generally must use this method if the recomputed federal taxable income on line 4 is \$100,000 or more, or if the taxable year is less than twelve

months due to a change in the annual accounting method. Use the federal tax rate schedule (either X, Y or Z) that corresponds to the individual's federal filing status.

An estate or trust generally must use this method.

- **Schedule D (Form 1040 or Form 1041).** If the amount on line 1 includes a net long-term capital gain, and if the amount calculated using this method is less than the amount calculated using either the federal tax table or federal tax rate schedule method above, this method may be used to take into account the maximum long-term capital gains tax rate(s) under federal law. **Complete a separate Schedule D (Form 1040 or Form 1041) on a pro forma basis using only the income (and net long-term capital gain) reported on line 1 of Schedule 7.**

Line 13

Enter the recomputed federal income tax liability on lines 1 and 9, Form 37-S or on lines 1 and 9, Schedule 1, Form 38. Do not complete lines 2 through 8 on either Form 37-S or Schedule 1, Form 38.